

Senate Judiciary Committee Amendment No. 4, as amended, (by Cohen)

Amendment No. 1 to SB1810

**Person
Signature of Sponsor**

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Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1810*

House Bill No. 1716

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 2, is amended by adding the following language as a new, appropriately designated section:

§ 39-14-212.

(a) A person commits aggravated cruelty to animals when, with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal.

(b) For purposes of this section:

(1) "Aggravated cruelty" means conduct which is done or carried out in a depraved or sadistic manner and which tortures or maims an animal;

(2) "Companion animal" means any non-livestock animal as defined in § 39-14-201(3);

(3) "Minor" means any person under eighteen (18) years of age; and

(4) "Elderly" means any person sixty-five (65) years of age or older.

(c) The provisions of subsection (a) shall not be construed to prohibit or interfere with the following endeavors:

(1) Dispatching an animal in any manner absent of aggravated cruelty;

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(2) Engaging in lawful hunting, trapping, or fishing activities, including activities commonly associated with the hunting of small game as defined in § 70-1-101(a)(34);

(3) Dispatching rabid or diseased animals;

(4) Dispatching animals posing a clear and immediate threat to human safety;

(5) Performing or conducting bona fide scientific tests, experiments or investigations within or for a bona fide research laboratory, facility or institution;

(6) Performing accepted veterinary medical practices or treatments;

(7) Dispatching animals in accordance with § 44-17-403(e);

(8) Engaging, with the consent of the owner of a farm animal, in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to such animal;

(9) Dispatching wild or abandoned animals on a farm; or

(10) Applying methods and equipment used to train animals.

(d)

(1) A first-time conviction for aggravated cruelty to animals is a Class A misdemeanor and shall be punished by confinement

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for a mandatory minimum period of six (6) months, to be served day for day. No person charged with a first-time violation of subsection (a) shall be eligible for pretrial diversion or judicial diversion; nor shall any person convicted of a first-time violation of subsection (a) be eligible for suspension of sentence, probation or any form of sentence reduction credit until such person has fully served, day for day, the mandatory minimum, six (6) month period of confinement.

(2) Any subsequent conviction for aggravated cruelty to animals is a Class E felony and shall be punished by confinement for a mandatory minimum period of nine (9) months, to be served day for day. No person charged with a second or subsequent violation of subsection (a) shall be eligible for pretrial diversion or judicial diversion; nor shall any person convicted of a second or subsequent violation of subsection (a) be eligible for suspension of sentence, probation or any form of sentence reduction credit until such person has fully served, day for day, the mandatory minimum, nine (9) month period of confinement.

(e) In addition to the penalty imposed by subsection (d), the sentencing court may order the defendant to surrender custody and forfeit all companion animals as defined in Section 1(b)(2), and may award custody of such animals to the agency presenting the case. The court

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may prohibit the defendant from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as is necessary for the protection of the animals.

(f) In addition to the penalty imposed by subsection (d), the court may require the defendant to undergo psychological evaluation and counseling, the cost to be borne by the defendant. If the defendant is indigent, the court may, where practicable, direct the defendant to locate and enroll in a counseling or treatment program with an appropriate agency.

(g) If a defendant convicted of a violation of this section resides in a household with minor children or elderly individuals, the court may, within fifteen (15) days, send notification of the conviction to the appropriate protective agencies.

(h) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the impounding officer or agency for all costs of impoundment from the time of seizure to the time of proper disposition of the case.

(i) In addition to the penalty imposed by subsection (d), the defendant may be held liable to the owner of the animal for damages.

(j) If a juvenile is found to be within the court's jurisdiction, for conduct that, if committed by an adult, would be a criminal violation

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involving cruelty to animals or would be a criminal violation involving arson, then the court may order that the juvenile be evaluated to determine the need for psychiatric or psychological treatment. If the court determines that psychiatric or psychological treatment is appropriate for that juvenile, then the court may order that treatment.

(k) This section does not preclude the court from entering any other order of disposition allowed under this chapter.

SECTION 2.

(a) The provisions of this act shall not be construed to change, modify, or amend any provision of Title 70, involving fish and wildlife.

(b) The provisions of this act do not apply to activities or conduct that are prohibited by § 39-14-203.

(c) The provisions of this act do not apply to equine animals or to animals defined as livestock by the provisions of § 39-14-201.

SECTION 3. This act shall take effect July 1, 2001, the public welfare requiring it.